IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.928 OF 2001.

The State of Maharashtra
(Through the Special Land
Acquisition Officer No.6 Pune : Appellant

versus

Dashrath Krishna Wadekar : Respondent.

Mr.B.R.Patil, Government Pleader, for the appellant.
None for the respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 22nd February 2005.

ORAL ORDER

1. Heard the Government Pleader for the appellant/State. Respondent is served. Nobody is present for him. This appeal is filed by the State against enhanced compensation awarded by the Reference Court i.e. 12th Additional

District Judge, Pune by judgment dated 31st January 2000. 19 R of land of the claimant was acquired in this case. Notification under Section 4 was dated 29th March 1984. The Special Land Acquisition Officer granted amount of Rs.2961/- as compensation and, the Reference Court awarded compensation at the rate of Rs.72,000/- per hectare.

2. The learned Government Pleader for the State drew my attention to the judgment of the trial Court wherein the Court has repeatedly held and concluded that the claimant has miserably failed to produce any evidence on record, oral as well as documentary in the form of sale instance or, even also income from the land acquired and, the earlier order in the L.A.R.No.89 of 1990, upon which reliance was placed by the claimant, was also of no use to the claimant. But in spite of all these clear cut findings, the Court, without any basis whatever, fixed market price of the acquired land at Rs.72,000/- per hectare. Hence this appeal.

3. The contentions of the Government Pleader are required to be accepted. When the claimant

has failed to prove any sale instance and also failed to give any documentary or oral evidence in that regard and, when no material, whatsoever, was produced by the claimant to enable the Court to fix the market price and, when the judgment in the earlier L.A.R.No.89 of 1990 could not be relied upon because of the quality of the land in that reference and the quality of the land in the reference before the Court being different, the Reference Court was not at all justified in fixing the compensation and, no interference in the compensation fixed by the SLAO was required. Hence the order :-

:ORDER:

The Appeal is allowed.

The order of the Reference Court dated 31st January 2000 is set aside and quashed. The compensation fixed by the Reference Court is set aside. The respondent/claimant will be entitled to the compensation as awarded by the SLAO.

If, after filing of the appeal, the State

has deposited the amount and the same has been withdrawn by the claimant, the claimant will return the exceed amount to the Court within six weeks from today and, if that is not done, the respondent/claimant will be liable to refund the amount with interest at 9% p.a. for the first year and 12% p.a. thereafter.

Respondent will pay the costs of the appeal.

[D.G.DESHPANDE]

22/02/2005 JUDGE.